



COMMONWEALTH of VIRGINIA

Office of the Attorney General

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MEMORANDUM

TO: Carolyn Eddy
Office of Licensure and Certification

FROM: Matthew M. Cobb
Assistant Attorney General

DATE: August 26, 2008

SUBJECT: **Non-Discretionary Amendments for the Medical Care Facilities Certificate of Public Need Rules and Regulations**
12 VAC 5-220-160

I have reviewed the proposed non-discretionary amendments to 12 VAC 5-220-160. The amendments are constitutional and do not conflict with existing state or federal statutes or regulations.

The Board of Health has the authority to promulgate the regulations under Va. Code §§ 32.1-12 and 32.1-102.2. The regulations are consistent with the Board's mandate as set forth in these sections. The regulations are exempt from the public participation provisions of the Administrative Process Act under Va. Code § 2.2-4006(a)(4), because they are necessary to conform to changes in Virginia statutory law where no agency discretion is involved. The Board of Health will not exceed its statutory authority in promulgating these regulatory amendments

If I may be of further assistance, please do not hesitate to contact me.

cc: Chris Durrer, Director
Office of Licensure and Certification
Douglas R. Harris
Adjudication Officer and
Administrative Coordinator